



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



**LETTER OF DEFICIENCY
WET 2002-33**

September 26, 2002

Mr. Michael Sheehy
20 Champlain Dr
Hudson, MA 01749

RE: DES Wetlands File #2002-01552 Merrymeeting Rd, New Durham

Dear Mr. Sheehy:

On August 28, 2002, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of New Durham Tax Map 41 as Lot 12 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A and NH Code of Admin. Rules Wt 100-700.

During the inspection and subsequent file review the following deficiencies were documented:

- 1 Two seasonal docks were located on the frontage, situated on or along the abutting property lines and there imaginary extensions over water.
- 2 The first dock located along the southern end of the property measured approximately 3 feet x 49 feet, with a 10 foot 3 inch x 12 foot deck attached at the lake ward end.
- 3 The second dock, located at the northern end of the property measured approximately 3 feet x 61 feet, with an 11 foot 1 inch x 10 foot 4 inch deck attached at the lake ward end.
4. Review of file documents shows no permits being issued for these docks.
5. The following regulations apply to the installation and maintenance of seasonal docks in the State of New Hampshire:
 - a. Constructed to be removed during the non-boating season; and,
 - b. Removed for a minimum of 5 months each year; and,
 - c. Configured to be narrow, rectangular, and erected perpendicular to the shoreline; and,
 - d. No more than 6 feet wide, and no more than 40 feet long if the waterbody is 1,000 acres or larger or no more than 30 feet long on water bodies that are less than 1,000 acres in size; and,
 - e. Located at least 20 feet from an abutting property line or imaginary extension of the property line over the water.
6. If these structures are to be considered grandfathered, they must meet the following criteria in accordance with Administrative Rule Wt 101.39 "Grandfathered status" which means that a structure:

- a. Was in place before permit jurisdiction under RSA 482-A: 3, I or its predecessor statute, RSA 483-A: 1, I, took effect;
- b. Has remained unaltered in location, size and configuration; and
- c. Has not been abandoned within the meaning of Wt 502.05, Wt 303.05(a) (4), Wt 101.01.

In response, you are requested to take the following actions:

1. Within 20 days remove the two seasonal docks and all associated supports from the frontage.
2. Within 60 days submit evidence to show the docks have existed on the frontage since September 4, 1978 (*See enclosed Certification Form*).
3. If you are unable to provide evidence to support the existence of these docks as grandfathered, in their present locations, sizes and configurations, they are not to be installed next year, 2003 or at any such time in the future.
4. If you are unable to provide grandfathered status and would like to install a dock, you will need to apply for a dock permit from the DES Wetlands Bureau, and meet all applicable rules and regulations as they apply to the waters of the state.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel will conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Jeffrey Blecharczyk, Shoreline Specialist
Wetlands Bureau
Department of Environmental Services
6 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact me at (603) 271-2147.

Sincerely,

COPY

Mary Ann Tilton
Senior Enforcement Officer
Wetlands Bureau

CERTIFIED MAIL: 7099 3400 0003 0688 9774

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen Rule, Administrator, DES Legal Unit ✓
Mark Harbaugh, DES Enforcement Attorney
New Durham Conservation Commission
New Durham Board of Selectmen
David Killoy, USACOE